

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHANDRA KISHOR,

Plaintiff,

v.

JOHN STOLLER, *et al.*,

Defendants.

Case No. 2:23-cv-01356-TLN-JDP (PC)

**ORDER**

GRANTING PLAINTIFF'S THIRD MOTION TO PROCEED *IN FORMA PAUPERIS*, DENYING HIS FIRST TWO MOTIONS AS MOOT, AND DENYING HIS MOTION FOR INTRODUCTION OF EVIDENCE

ECF Nos. 4, 13, 17, & 20

**FINDINGS AND RECOMMENDATIONS**

THAT THE SECOND AMENDED COMPLAINT FAILS TO STATE A COGNIZABLE CLAIM AND RECOMMENDING THAT THIS ACTION BE DISMISSED

ECF No. 18

OBJECTIONS DUE WITHIN FOURTEEN DAYS

Plaintiff, a state prisoner at California State Prison, Solano, has filed a second amended complaint that is nearly incomprehensible. As best I can tell, his claims relate to the validity of his conviction and, thus, are unsuited to a § 1983 action. I will grant the latest of plaintiff's applications to proceed *in forma pauperis*, ECF No. 17, and deny his previous two as moot, ECF

1 Nos. 4 & 13.

2 **Screening Order**

3 **I. Screening and Pleading Requirements**

4 A federal court must screen a prisoner’s complaint that seeks relief against a governmental  
5 entity, officer, or employee. *See* 28 U.S.C. § 1915A(a). The court must identify any cognizable  
6 claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a  
7 claim upon which relief may be granted, or seeks monetary relief from a defendant who is  
8 immune from such relief. *See* 28 U.S.C. §§ 1915A(b)(1), (2).

9 A complaint must contain a short and plain statement that plaintiff is entitled to relief,  
10 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its  
11 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not  
12 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.  
13 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere  
14 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not  
15 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,  
16 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that  
17 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264  
18 n.2 (9th Cir. 2006) (en banc) (citations omitted).

19 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404  
20 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it  
21 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which  
22 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).  
23 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements  
24 of the claim that were not initially pled.”” *Brunsv v. Nat’l Credit Union Admin.*, 122 F.3d 1251,  
25 1257 (9th Cir. 1997) (*quoting Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

26 **II. Analysis**

27 Plaintiff’s complaint is nearly impossible to understand. As best I can tell, however, it  
28 relates to an allegedly “illegal plea” that he was forced to accept in state court. ECF No. 18 at 2-

1       3. He makes vague references to cover-ups, excessive sentencing, and “kickbacks” between  
2 district attorneys and judges. *Id.* at 3-4. These allegations are almost certainly frivolous.  
3 Moreover, they are unsuited to a section 1983 action because success on any of them would  
4 necessarily imply that plaintiff’s conviction is invalid. *See Heck v. Humphrey*, 512 U.S. 477, 487  
5 (1994). In light of the foregoing, I find that further opportunities to amend are unwarranted.

6           Accordingly, it is ORDERED that:

- 7           1. Plaintiff’s motion to proceed in forma pauperis, ECF No. 17, is GRANTED.  
8           2. Plaintiff’s previous motions to proceed *in forma pauperis*, ECF Nos. 4 & 13, are  
9           DENIED.  
10          3. Plaintiff’s motion for introduction of evidence, ECF No. 20, is DENIED. If these  
11           recommendations are rejected, he may renew it.

12          Further, it is RECOMMENDED that plaintiff’s second amended complaint, ECF No. 18,  
13          be DISMISSED without leave to amend for failure to state a cognizable claim.

14          These findings and recommendations are submitted to the United States District Judge  
15          assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
16          after being served with these findings and recommendations, any party may file written  
17          objections with the court and serve a copy on all parties. Such a document should be captioned  
18          “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the  
19          objections shall be served and filed within fourteen days after service of the objections. The  
20          parties are advised that failure to file objections within the specified time may waive the right to  
21          appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
22          *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

23          IT IS SO ORDERED.

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25          Dated: March 13, 2024

  
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JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE